

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,

AT DODDABALLAPUR.

Dated this the 6th day of January, 2018

PRESENT: Sri.M.B.KULKARNI,
B.Sc., LL.B (Spl)
Senior Civil Judge & JMFC.,
Doddaballapur.

O.S.No.381/2013

Plaintiff: Smt.Ammajamma,
D/o Late Hanumantharayappa,
W/o Venkatappa,
A/a.68 years,
R/at. Kodihalli,
Madhure Hobli,
Doddaballapura Taluk.

(Reptd by advocate Sri.S.A.Khadri)

V/s.

Defendants: 1. Sri.Hanumantharayappa,
S/o Late Hanumantharayappa,
A/a. 70 years,

2. Smt.Hanumakka,
D/o Late Hanumantharayappa,
A/a.72 years,
Both are R/at.
Kodihalli Village,
Madhure Hobli,
Doddaballapura Taluk.

(Reptd by advocate Sri.M.Krishnamurthy For D1,
D-2 Dead.)

* * * * *

I.A.No.III is filed by the plaintiff under Order 22 Rule 3 and 4 R/w Section 151 of CPC to implead the proposed defendant No.2(a) to 2(f) as LRs of deceased defendant No.2.

2. I.A.No.IV is filed by plaintiff under Order 22 Rule 9 of CPC to set aside the abatement of the suit in respect of death of defendant No.2 Smt.Hanumakka.

3. I.A.No.V is filed by the plaintiff under Section 5 of Limitation Act, to condone delay in filing LRs application in the interest of justice and equity.

4. In the accompanying affidavit of the above said I.A.s it is averred by the plaintiff that during pendency of the suit defendant No.2 Smt.Hanumakka died living behind her legal heirs as shown in I.A.No.III as defendant No.2(a) to 2(f) and it is necessary to bring them on record to continue the suit against defendants by way of impleadment to prove the case of plaintiff. Hence, prayed to allow I.A.No.III to V.

5. The notice of the I.A.No.III to V served on the LRs of defendant No.2 but they have not appeared before this Court and not filed their objections to such I.A.s.

Hence, heard arguments of plaintiff on I.A.No.III to V.

6. In the light of the above the following points arise for my consideration.

Point No.1: Whether the I.A.No.III to V filed by the plaintiff
deserves to be allowed?

Point No.2 : What order?

7. My findings to the above points are as under:

Point No.1: In the Affirmative.

Point No.2: As per final order.

REASONS

8. **Point No. 1:** The careful perusal of the order sheet of this suit goes to show that I.A.No.III to V are filed on 30-06-2014 in the office of the Court and in spite of service of notice of such I.A.s to LRs of defendant No.2 they have not filed any objections to such I.A.s. Therefore, it appears that the LRs of defendant No.2 have no objection to allow such I.A.s to implead them in this suit as proposed defendant No.2(a) to 2(f). Therefore, the I.A.No.V filed by the plaintiff seeking condonation of delay in filing application deserves to be allowed and the abatement caused in bringing LRs. of defendant No.2 on record requires to be set aside in the interest of justice to enable the plaintiff to prove his case on the merits of the suit. Hence, I answered point No.1 in the affirmative.

09. **Point No. 2:** On the basis of my above reasons and in the result I proceed to pass following;

ORDER

The I.A.No.III to V filed by the plaintiff is hereby allowed. The plaintiff is permitted to bring LRs of defendant No.2 on record and permitted to amend the plaint to insert defendant No.2(a) to 2(f) in the cause title of the plaint.

(Dictated to the Typist copyist, typed by her, corrected and then pronounced by me in the open Court on the 06th day of January, 2018.)

(M.B.KULKARNI)
Senior Civil Judge,
Doddaballapur.